

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simone Cherry (T2)	Team: Team # 5	CCRB Case #: 200813807	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/22/2008 1:00 AM	Location of Incident: 14th Street-Union Square Train Station 'R' train platform	Precinct: 13	18 Mo. SOL 3/22/2010	EO SOL 3/22/2010	
Date/Time CV Reported Mon, 09/22/2008 4:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 09/22/2008 4:56 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Palmese	23846	928921	TB DT02

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brandon Tom	06729	937639	TB DT02

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Palmese	Abuse: Police Officer Michael Palmese refused to provide his name and/or shield number to § 87(2)(b)	

Synopsis

On September 22, 2008, between 1:00 a.m. and 2:00 a.m., § 87(2)(b) stood on the platform inside the Union Square subway station in Manhattan, waiting for the R train headed towards Brooklyn, when she saw two uniformed male police officers who were assigned to Transit District 2. She identified PO Brandon Tom by his surname, who is assigned to Transit District 2, which she saw on his shield, but did not obtain his partner, PO Michael Palmese's name (identified through investigation). § 87(2)(b) approached the officers and twice asked if the trains were running and was told the trains were running. She then asked PO Palmese for his name and alleged that he refused to provide his name to her (allegation A).

§ 87(2)(g)

Mediation was offered to § 87(2)(b) and she refused because she wants the subject officer disciplined. § 87(2)(b)

Summary of Complaint

On September 22, 2008, at approximately 4:56 p.m., § 87(2)(b) filed her CCRB complaint via email (encs. 5a-d). On October 20, 2008, § 87(2)(b) was interviewed at the CCRB (encs. 7d-g). § 87(2)(b)

On September 22, 2008, between 1:00 a.m. and 2:00 a.m., § 87(2)(b) was inside the Union Square subway station in Manhattan. She stood on the platform waiting for the "R train" headed towards Brooklyn when she saw two male uniformed police officers. § 87(2)(b) identified PO Brandon Tom by his name whose name she saw on his shield, and described him as an Asian male, about 5'9", mid-late 20's, 175 pounds, medium build, with black hair, and brown eyes, who is assigned to Transit District 2, and did not obtain his partner, Police Officer Michael Palmese's name (identified through investigation). Instead, § 87(2)(b) described Police Officer Palmese as a white male, about 5'10", mid-late 20's, 175 pounds, medium build, with brown and/or blonde hair and blue or brown eyes, whose assignment was Transit District 2. As § 87(2)(b) waited on the platform, she approached the officers and asked if the trains were running. Police Officer Palmese replied that the train headed to Brooklyn was running but would probably take about a half hour to arrive. After a half hour past, § 87(2)(b) approached the officers, a second time, and said, "Is there a problem, are you sure the trains are running? Police Officer Palmese replied, "I told you the trains were running." § 87(2)(b) then asked Police Officer Palmese for his name and he replied, "I'm not giving you my name." She then approached Police Officer Tom and he told her he did not know his partner's name. Eventually the train arrived and she boarded the train. On January 8, 2009, § 87(2)(b) viewed a photo array (encs. 7a-c) but did not identify Police Officer Brandon Tom or his partner, Michael Palmese.

Results of Investigation

Police Officer Statements:

Police Officer Brandon Tom

Police Officer Brandon Tom was interviewed at the CCRB on November 18, 2008 (encs. 8d-e) due to his name, ethnicity, and assignment. Police Officer Tom is a § 87(2)(b)-year-old Asian male, who is assigned at Transit District 2. On September 22, 2008, Police Officer Tom worked an 11:15 p.m. until 7:50 a.m. tour, with partner, Police Officer Michael Palmese and was dressed in uniform. Although, PO Tom was assigned at Transit District 2, he claimed to have no knowledge of this incident and no memo book entries involving § 87(2)(b)'s incident (encs. 8a-c). Instead, Police Officer Tom's written memo book entry documented that he was in the vicinity of 14th Street and Eight Avenue in Manhattan picking up an officer at Saint Vincent Hospital (enc. 8b).

Police Officer Michael Palmese

Police Officer Michael Palmese was interviewed at the CCRB on February 3, 2009 (encs. 9e-f). Police Officer Palmese is a § 87(2)(b)-year-old white male, who is assigned at Transit District 2. On September 22, 2008, Police Officer Palmese worked an 11:15 p.m. until 7:50 a.m. tour, with partner, Police

Officer Brandon Tom and was dressed in uniform. Although, PO Palmese was assigned at Transit District 2 as alleged by § 87(2)(b) and fit the physical description provided by § 87(2)(b) Police Officer Palmese claimed to have no knowledge of this incident and no memo book entries involving § 87(2)(b)'s incident (encs. 9a-d). Instead, Police Officer Palmese's written memo book entry documented that he was in the vicinity of 14th Street and Eight Avenue in Manhattan picking up an officer at Saint Vincent Hospital (enc. 9c).

Police Department Records

Transit District 2 Tour 1's roll call dated September 22, 2008 (encs. 12a-f), confirmed that Police Officers Brandon Tom and Michael Palmese worked on date of incident and was assigned to transit mobilization unit which covered trains at 14th Street between 6 and 8th Avenues in Manhattan.

§ 87(2)(b)'s CCRB History/Criminal History

§ 87(2)(b) has no prior CCRB case (enc. 4). According to the New York City and New York State Department of Corrections printout, no arrest was found for § 87(2)(b).

Police Officer Michael Palmese's CCRB History

Police Officer Michael Palmese has no prior CCRB case (enc. 3). According to the New York City CCRB's Officer History printout, he has been employed by the New York City Police Department for seven years.

Conclusions and Recommendations

Police Officer Identification:

§ 87(2)(b) identified Police Officer Brandon Tom by his name and provided physical descriptions of both Police Officers Tom and his partner, Michael Palmese and their job assignments (Transit District 2) that matched their pedigree and assignment. Although this incident occurred in the confines of Transit District 4 and a photo array was conducted with § 87(2)(b) and she did not identify either Police Officers Tom or Palmese; both Police Officers Tom and Palmese who are assigned to Transit District 2 were interviewed, but claim to have no knowledge of this incident. Despite, the officers claim that they had no knowledge about this incident, Transit District 2 Tour 1's roll call confirmed that their job assignment covered the alleged location of incident (trains at 14th Street between 6th-8th Avenues) as reported by § 87(2)(b). As a result, the abuse of authority allegation is being plead against Police Officer Michael Palmese.

Undisputed and Disputed Facts:

It is not disputed that Police Officers Brandon Tom and Michael Palmese were at the 14th Street subway station on September 22, 2008, based on police records. At issue is whether Police Officer Michael Palmese refused to provide his name to § 87(2)(b).

Assessment of Evidence

Police Officers Brandon Tom and Michael Palmese denied knowing anything about § 87(2)(b)'s incident. Instead, Police Officers Tom and Palmese admitted they both worked on date of incident and acknowledged that they were in the vicinity of 14th Street and Eight Avenue in Manhattan to pick up an officer from Saint Vincent Hospital according to their memo book entries, but denied they were inside the subway station. According to police records their assignment entailed covering trains at 14th Street between 6th and 8th Avenues involving vandalism. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Police Officer Michael Palmese refused to provide his name and/or shield number to § 87(2)(b)

According to Patrol Guide Procedure 203-09 (public contact) (enc.2), a police officer must provide their name or shield number to an individual requesting this information. § 87(2)(g)

Investigator: Simone Cherry

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: